



Paper No. 4

BROWDY AND NEIMARK, P.L.L.C.
ATTORNEYS AT LAW
Suite 300
624 Ninth Street, N.W.
Washington, DC 20001-5197

COPY MAILED**MAY 28 2002**

In re Application of
Frederic Triebel
Application No. 10/041,600
Filed: January 10, 2002
Attorney Docket No. TRIEBEL=2A

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the "Traversal of Notice of Omitted Items" filed April 15, 2002, requesting that the "Notice of Omitted Items" mailed February 13, 2002 be withdrawn.

Application papers in the above-identified application were filed on January 10, 2002. However, on February 13, 2002, the Initial Patent Examination Division (IPED) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," stating that the application had been accorded a filing date; however, Page 7 of the specification appeared to have been omitted from the application.

In reply, applicant timely filed the instant petition. Applicant maintains that the application as filed on January 10, 2002 was complete. In support thereof, petitioner submitted a copy of their "postcard" receipt identifying this application by serial number and filing date, itemizing "Specification and Claims (25 pages)" among the enclosures, bearing a USPTO receipt date-stamp of January 10, 2002, and lacking any notation of non-receipt of any item listed. A clean copy of page 7 of the specification was also provided.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Applicant has shown that the application as filed on January 10, 2002 included 25 pages of specification and claims. Moreover, a comparison of the papers presently accorded a filing date of January 10, 2002 and page 7 of the specification submitted on petition reveals that these papers together constitute the 25 pages of specification and claims itemized on the postcard receipt. Thus, applicant has shown that the application is entitled to a filing date of January 10, 2002, with page 7 of the specification as part of the original application disclosure.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to applicant, as requested.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- reprocessing with a filing date of January 10, 2002, using the application papers received in the Office on that date

and page 7 of the specification resubmitted on petition
filed April 15, 2002.

Applicant will receive appropriate notifications regarding the
fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed
to Petitions Attorney Nancy Johnson at 703-305-0309.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy